



CRM-M-38777-2021 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-38777-2021 (O&M)

Reserved on :12.03.2025

Pronounced on: 25.03.2025

Poonam Kondal alias Baby

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. P.S. Ahluwalia, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. Karnail Singh, Advocate, for respondent No.2.

KIRTI SINGH, J.

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for quashing the FIR No.0236 dated 03.12.2020, under Sections 498-A, 406, 323, 342, 380 and 120-B IPC, registered at Police Station City Kotwali Nabha, District Patiala.

2. Factual matrix

The facts in brief, as culled out from the present FIR, are that the same was registered against the petitioner as well as five other co-accused by respondent No.2, wherein it was stated that her marriage was solemnized on 27.02.2020 with accused Manav Kauldhar as per Hindu rites and rituals at Patiala, with great pomp and show. Approximately, Rs.1 crore was spent by parents of respondent No.2 on the marriage and a lot of



household items and gold silver jewellery etc., as Istridhan, were given to her in laws family. After their marriage, respondent No.2 and her husband started residing together at the matrimonial home in Mohali. However, soon after, the accused persons started taunting respondent No.2 for bringing less dowry, and subjected her to harassment and beatings, making constant demands for a Fortuner Car and also Rs.1 crore in cash to facilitate the settlement of respondent No.2 and her husband in Canada. Respondent No.2 also alleged that the accused collectively beat her on several occasions and they even locked her in a room. On 02.03.2020, her mother-in-law, the present petitioner, and her sister-in-law (Jethani), at the instigation of her husband, brother-in-law and father-in-law, gave beatings to her mercilessly and the petitioner caught hold her from her arms and Tanvir Kaur caught hold her from hair and her mother in law had given fist blows in her stomach. On 08.03.2020, the mother-in-law and father-in-law with the husband of respondent No.2 yet again used filthy language and threatened that if she did not fulfill their above mentioned demands then they would send her to her parental house. Ultimately on 07.08.2020, she was turned out of her matrimonial house, after giving beatings, by her in laws, on the demand of money, and ever since she is living with her parental family at her parental house.

3. Submissions made by learned counsel for the petitioner

The four main planks of arguments raised by the learned counsel for the petitioner to prove her innocence are that first, the petitioner



was an adopted daughter of her parents whose marriage was solemnized nearly twenty years before the marriage of respondent No.2, and ever since, she has been happily residing at her matrimonial home.

Second, that vague and omnibus allegations have been levelled against the petitioner. He submits that a bare reading of the FIR would make it evident that the petitioner has been accused with generic allegations, none of which stand corroborated. The sole purpose behind doing so is to cause harassment to the petitioner and other family members; and that not only was the petitioner falsely embroiled in the present FIR, but was also falsely implicated in a criminal complaint under the Protection of Women from Domestic Violence Act, 2005. The petitioner had invoked the jurisdiction of this Court for quashing of the complaint under DV Act, in which this Court in CRM-M-36348-2021 vide order dated 03.09.2021 (Annexure P-5), was pleased to issue notice of motion and stay further proceedings before the learned Trial Court.

Third, he submits that the guidelines laid down in “*Lalita Kumari vs. State of Uttar Pradesh*” 2014 (2) SCC (1), that a preliminary inquiry may be conducted in matrimonial/family disputes, among other categories, prior to the registration of the FIR, to ascertain whether the information/complaint so received even discloses the commission of a cognizable offence or not, were clearly not followed, and that the registration of the FIR was rushed into with an oblique motive.

Finally, he submits that the petitioner stands on an equal, if not better footing, from her brother and sister in law, against whom the same



FIR as in the instant case was quashed by this Court in CRM-M-24502-2021.

To buttress his submissions, learned counsel for the petitioner has placed reliance upon the decisions passed by the Hon'ble Supreme Court in "Preeti Gupta vs. State of Jharkhand", (2010) 7 SCC 667, "Geeta Mehrotra and Anr. Vs. State of U.T. and Anr", (2012) 10 SCC 741 and "Pritam Ashok Sadaphule and Ors. Vs. State of Maharashtra and Anr.", (2015) 11 SCC 769. He further places reliance upon the orders passed by this Court in "Poonam Nagar vs. State of Haryana and Anr.", CRM-M-294-2014 and "Gunmala vs. State of Haryana and Anr", CRM-M-35816-2014.

4. Submissions made by the learned counsel for respondent No.2

Learned counsel for respondent No.2/complainant contends that there are specific allegations qua the present petitioner in the instant FIR. He submits that since the inception of the marriage, the accused person had harassed and tortured the respondent No.2 in all possible ways. He further submits that the petitioner, alongside the other accused, gave beatings to respondent No.2 on 02.03.2020. There are also specific allegations against the petitioner regarding maltreatment and demand of dowry. Reliance has been placed upon the decision passed by Hon'ble Supreme Court in "Kaptan Singh Vs. The State of Uttar Pradesh", Criminal Appeal No.787 of 2021.

**5. Submissions made the learned State counsel**

Learned State counsel, while referring to the status report filed by way of affidavit of Deputy Superintendent of Police, Sub Division Nabha, District Patiala, reiterates and submits that there are specific allegations leveled against the petitioner and that any averment made by the petitioner are matter of trial, which would be ascertained in due course.

6. Analysis & conclusion

Having heard learned counsel for the respective parties and having perused the material on record, the singular moot point for the consideration of this Court is whether the present FIR lodged against the petitioner herein deserves to be quashed.

A bare perusal of the present FIR indicates that the allegations levelled are non specific, especially qua the petitioner, whose marriage was solemnized nearly two decades prior to the marriage of respondent No.2, and who has ever since been living at her matrimonial home in Jalandhar, near about 140 kms away from the matrimonial home of respondent No.2, and raising her two school going children. The sweeping allegations levelled against the petitioner have also not been sought to be corroborated by placing any evidence on record; nor has a medical report, though not *sine qua non*, been advanced. As has been observed in a catena of judgments merely referencing names in an FIR, without substantiating them with any evidence, are not sufficient to establish charges. This is said especially in reference to the instant case, where the same FIR already stands quashed qua the brother-in-law and sister-in-law (*Jeth and Jethani*) of respondent No.2,



on the similar grounds by categorically observing that respondent No.2 herein had subjected them to the abuse of process of law as no specific allegation had ever been levelled and thereafter proved against them So is the case with the present petitioner.

The Hon'ble Supreme Court of India in it's very recent judgment passed in **"Geddani Jhansi & Anr. Vs. The State of Telangana & ORs."**, arising out of **SLP (Criminal) No.9556 of 2022**, has held that Courts must be cautious when family relations are sought to be brought under criminal proceedings. It was observed that:-

"31. Invoking criminal process is a serious matter with penal consequences involving coercive measures, which can be permitted only when specific act(s) which constitute offences punishable under the penal code or any other penal statute are alleged or attributed to the accused and a prima facie case is made out. It applies with equal force when criminal laws are invoked in domestic disputes. Criminalising domestic disputes without specific allegations and credible materials to support the same may have disastrous consequences for the institution of family, which is built on the premise of love, affection, cordiality and mutual trust. Institution of family constitutes the core of human society. Domestic relationships, such as those between family members, are guided by deeply ingrained social values and cultural expectations. These relationships are often viewed as sacred, demanding a higher level of respect, commitment, and emotional investment compared to other social or professional associations. For the aforesaid reason, preservation of family relationship has always been emphasised upon. Thus, when family relationships are sought to be brought within the ambit of criminal proceedings rupturing the family bond, courts should be circumspect and judicious, and should allow invocation of criminal process only when there are specific allegations with supporting materials which clearly constitute criminal offences.

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35. We are, thus, of the view that in criminal cases relating to domestic violence, the complaints and charges should be specific, as far as possible, as against each and every member of the family who are accused of such offences and



sought to be prosecuted, as otherwise, it may amount to misuse of the stringent criminal process by indiscriminately dragging all the members of the family. There may be situations where some of the family members or relatives may turn a blind eye to the violence or harassment perpetrated to the victim, and may not extend any helping hand to the victim, which does not necessarily mean that they are also perpetrators of domestic violence, unless the circumstances clearly indicate their involvement and instigation. Hence, implicating all such relatives without making specific allegations and attributing offending acts to them and proceeding against them without prima facie evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence, would amount to abuse of the process of law.

36. Our observations, however, should not be generalised to mean that relatives cannot be brought under the purview of the aforesaid penal provisions when they have actively participated in inflicting cruelty on the daughter-in-law/victim. What needs to be assessed is whether such allegations are genuine with specific criminal role assigned to such members of the family or whether it is merely a spill over and side-effect of a matrimonial discord and allegations made by an emotionally disturbed person. Each and every case of domestic violence will thus depend on the peculiar facts obtaining in each case.”

Similarly, it was held by the Hon’ble Supreme Court in **Dara Lakshmi Narayana and others Vs. State of Telangana and another 2024 SCC Online SC 3682**, that cases in which there is a mere reference to the names of the family members in a criminal case arising out of the matrimonial dispute, without any specific allegations indicating their active involvement, should be nipped in the bud, in absence of a clear cut prima facie case against them. The relevant observations in this regard are extracted hereunder:-

“28. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there



have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

29. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.

*30. In the above context, this Court in **G.V. Rao vs. L.H.V. Prasad, (2000) 3 SCC 693** observed as follows:*

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude



and in that process the parties lose their “young” days in chasing their “cases” in different courts.”

*31. Further, this Court in **Preeti Gupta vs. State of Jharkhand (2010) 7 SCC 667** held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment by the husband’s close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.”*

In another recent judgment passed by the Hon’ble Supreme Court in **Achin Gupta Vs. State of Haryana and another 2024 SCC Online SC 759,** it has been held that the Court must proceed pragmatically and must read between the lines to unearth whether a prima facie case for proceeding against the persons accused of an offence infact exists. It must not shut its eyes and raise its hands in helplessness by mechanically saying that the FIR and chargesheet papers disclose the commission of a cognizance offence. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but an abuse of the process of the Court. The relevant observations in this regard are extracted hereunder:-

“25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, prima facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

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31. We are of the view that the category 7 referred to above should be taken into consideration and applied in a case like the one on hand a bit liberally. If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter. If the submission canvassed by the counsel appearing for the Respondent No. 2 and the State is to be accepted mechanically then in our opinion the very conferment of the inherent power by the Cr. P.C. upon the High Court would be rendered otiose. We are saying so for the simple reason that if the wife on account of matrimonial disputes decides to harass her husband and his family members then the first thing, she would ensure is to see that proper allegations are levelled in the First Information Report. Many times the services of professionals are availed for the same and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands in helplessness, saying that whether true or false, there are allegations in the First Information Report and the chargesheet papers disclose the commission of a cognizable offence. If the allegations alone as levelled, more particularly in the case like the one on hand, are to be looked into or considered then why the investigating agency thought fit to file a closure report against the other co-accused? There is no answer to this at the end of the learned counsel appearing for the State. We say so, because allegations have been levelled not only against the Appellant herein but even against his parents, brother & sister. If that be so, then why the police did not deem fit to file chargesheet against the other co-accused? It appears that even the investigating agency was convinced that the FIR was nothing but an outburst arising from a matrimonial dispute.

32. Many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is the panacea of all evil. No sooner the matter reaches up to the Police, then even if there are fair chances of reconciliation between the



spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper sensitive approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes the main sufferers are the children. The spouses fight with such venom in their heart that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children. Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband at ransom so that he could be squeezed by the wife at the instigation of her parents or relatives or friends. In all cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty.”

There is no specific evidence on record to indicate the direct involvement of the petitioner in any act of cruelty or mis-appropriation of the *istridhan*. It is a well settled principle that merely by virtue of being



related to the husband, persons cannot be roped into dowry cases, without substantial proof of their active participation.

Accordingly, on a conspectus of the facts & circumstances and in light of the judicial pronouncements discussed hereinabove, this Court is of the considered opinion that in the absence of any cogent reliable evidence, no purpose would be served in continuing with the criminal proceedings qua the petitioner. Therefore, the present petition is **allowed** and FIR No.0236 dated 03.12.2020, under Sections 498-A, 406, 323, 342, 380 and 120-B IPC, registered at Police Station City Kotwali Nabha, District Patiala and all subsequent proceedings arising therefrom are quashed qua the present petitioner.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

25.03.2025
Kapil

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No